

**Introduced by Senator Machado**

January 24, 2005

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An act to amend Sections 79402, 79423, and 79509.6, relating to water.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 113, as introduced, Machado. California Bay-Delta Authority Act.

Existing law, the California Bay-Delta Authority Act, establishes in the Resources Agency the California Bay-Delta Authority until January 1, 2006, unless a certain determination is made. The act requires the authority and the implementing agencies, as defined, to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those projects, programs, commitments, and other actions that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended. The act requires the authority to review, approve, and make recommendations regarding certain annual program plans and project expenditures submitted by the implementing agencies based on prescribed criteria.

This bill would require the authority, in undertaking that review, approval, or modification, to consider the extent to which those plans or expenditures are consistent with the "beneficiary pays principle," as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 79402 of the Water Code is amended to read:

79402. Unless the context otherwise requires, the following definitions set forth in this section govern the construction of this division:

(a) “Authority” means the California Bay-Delta Authority.

(b) “Balance” or “balanced implementation” means the implementation of projects, programs, or other actions in a manner that meets both of the following requirements:

(1) Is consistent with the implementation schedule and milestones described in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, or as it may be amended.

(2) Results in concurrent improvement in all program elements in a manner that ensures that improvements in some program elements are not made without corresponding improvements in other program elements.

(c) “Bay-delta” means the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

(d) “Bay-Delta Public Advisory Committee” means the Bay-Delta Public Advisory Committee established by charter issued by the United States Department of Interior, dated June 8, 2001, and filed on July 2, 2002.

(e) (1) *“Beneficiary pays principle” means the allocation of project costs to beneficiaries in approximate proportion to the benefits received.*

(2) *For the purposes of applying the beneficiary pays principle, the following terms have the following meanings:*

(A) *Subject to subparagraph (B), a “beneficiary” means* \_\_\_\_\_.

(B) *A beneficiary does not include* \_\_\_\_\_.

(C) *Subject to subparagraph (D), “benefits” mean* \_\_\_\_\_.

(D) *Benefits do not include* \_\_\_\_\_.

(E) *“Public benefits” mean* \_\_\_\_\_.

(F) *“User benefits” mean* \_\_\_\_\_.

(f) “California Bay-Delta Program” or “Bay-Delta Program” means those projects, programs, commitments, and other actions that address the goals and objectives of the CALFED Bay-Delta

1 Program Record of Decision, dated August 28, 2000, or as it may  
2 be amended.

3 ~~(f)~~

4 (g) “Category A programs” means those state and federal  
5 agency programs and funds that are to be managed and  
6 implemented consistent with the California Bay-Delta Program’s  
7 goals and objectives.

8 ~~(g)~~

9 (h) “Director” means the Director of the California Bay-Delta  
10 Authority.

11 ~~(h)~~

12 (i) “Implementing agencies” means those agencies with the  
13 primary responsibility for implementing the program elements,  
14 subject to Sections 79440 and 79441.

15 ~~(i)~~

16 (j) “Program elements” means the following 11 program  
17 elements of the California Bay-Delta Program:

18 (1) Levee system integrity.

19 (2) Water quality.

20 (3) Water supply reliability.

21 (4) Ecosystem restoration.

22 (5) Water use efficiency.

23 (6) Water transfer.

24 (7) Watershed.

25 (8) Storage.

26 (9) Conveyance.

27 (10) Science.

28 (11) Environmental water account.

29 ~~(j)~~

30 (k) “Projects” means both programs and capital projects.

31 SEC. 2. Section 79423 of the Water Code, as added by  
32 Section 2 of Chapter 955 of the Statutes of 2002, is amended to  
33 read:

34 79423. (a) The implementing agencies shall annually submit  
35 to the director their annual program plan and proposed budget for  
36 the following budget year describing how each implementing  
37 agency proposes to implement their respective program elements  
38 during the following budget year. The director shall then submit  
39 a comprehensive budget proposal to the Secretary of the  
40 Resources Agency for consideration consistent with the existing

1 budget development process. Individual departmental budget  
2 requests are exempt from the Bagley-Keene Open Meeting Act  
3 (Article 9 (commencing with Section 11120) of Chapter 1 of Part  
4 1 of Division 3 of Title 2 of the Government Code). These  
5 programs shall also address environmental justice concerns and  
6 assess the impacts of projects and activities on tribal trust  
7 resources and tribal governmental concerns.

8 (b) Each annual program plan and proposed budget shall  
9 include programs that are designated as Category A programs in  
10 Attachment 3, entitled "Implementation Memorandum of  
11 Understanding" of the CALFED Bay-Delta Program Record of  
12 Decision, dated August 28, 2000, or as it may be amended.

13 (c) Annually, the authority shall consult with the agencies  
14 identified in subdivision (f) of Section 79401 and the Bay-Delta  
15 Public Advisory Committee, and shall determine, with the  
16 concurrence of the implementing agencies, those changes that  
17 shall be made to the list of Category A programs.

18 (d) Each annual program plan and proposed budget shall  
19 include program priorities, work plans, proposed budgets, and  
20 significant program products, including, but not limited to,  
21 regulations, grant or loan solicitations, schedules for production  
22 of environmental documents, and project selection processes.

23 (e) Annual program plans and proposed budgets also shall  
24 include a strategy and proposed budget for addressing  
25 program-specific, critical scientific uncertainties, developing and  
26 implementing performance measures, evaluating program  
27 actions, developing strategies for incorporating tribal and  
28 environmental justice interests, and conducting scientific review  
29 of program implementation and proposed projects. The  
30 implementing agency and the director shall consult with the lead  
31 scientist, as appropriate, to determine an appropriate science  
32 strategy and proposed budget.

33 (f) The implementing agencies shall develop comprehensive  
34 tribal and environmental justice work plans, including specific  
35 goals and objectives and projected expenditures that address all  
36 program areas.

37 (g) The implementing agencies shall coordinate the  
38 preparation of annual program plans and proposed budgets with  
39 agencies participating in the California Bay-Delta Program,

1 federally recognized Indian tribes, and other appropriate  
2 agencies.

3 (h) The implementing agencies and the director shall seek to  
4 integrate the annual plans and proposed budgets for the program  
5 elements into a comprehensive and balanced annual  
6 implementation plan.

7 (i) Annually, the authority shall review and approve, and, as  
8 appropriate, may recommend that implementing agencies  
9 modify, multiyear program plans and long-term expenditure  
10 plans on behalf of Category A programs, based on the following  
11 criteria:

12 (1) Consistency with the program.

13 (2) The balanced achievement of the program's goals and  
14 objectives.

15 (3) *Consistency with the "beneficiary pays principle," as*  
16 *defined in Section 79402.*

17 (j) If the authority does not approve an implementing agency's  
18 multiyear program plan and long-term expenditure plan, the  
19 authority shall prepare and submit written findings to the  
20 appropriate policy and fiscal committees of the Legislature and  
21 the implementing agencies, describing how the multiyear  
22 program plan and long-term expenditure plan do not meet the  
23 criteria adopted by the authority pursuant to subdivision (o) of  
24 Section 79421.

25 (k) If the authority recommends modification to  
26 implementation of the Budget Act for the current fiscal year or  
27 the multiyear program plan and long-term expenditure plan, the  
28 implementing agency shall resubmit the Budget Act  
29 implementation plan, the multiyear plan, or the long-term  
30 expenditure plan, as appropriate, to the authority for approval. If  
31 an implementing agency makes any of the modifications  
32 recommended by the authority, the authority shall submit these  
33 modifications to the Legislature.

34 (l) Nothing in this division limits or interferes with the final  
35 decisionmaking authority of the implementing agencies.

36 (m) This section shall become operative only if this bill and  
37 Senate Bill 1653 of the 2001-02 Regular Session are both  
38 chaptered and become effective on or before January 1, 2003,  
39 and this bill is chaptered last, in which case this section shall  
40 prevail over Section 79423, as added by Senate Bill 1653.

1 (Added by Stats. 2002, Ch. 955, Sec. 2. Effective January 1,  
2 2003. Conditionally repealed on January 1, 2006, pursuant to  
3 Section 79475. This section, by its own provisions, prevails over  
4 the version added by Stats. 2002, Ch. 812.)

5 SEC. 3. Section 79509.6 of the Water Code is amended to  
6 read:

7 79509.6. (a) For the purposes of ensuring compliance with  
8 Section 79509, the California Bay-Delta Authority shall review  
9 regulations, guidelines, or criteria that are proposed by an  
10 implementing agency to carry out a grant program for projects  
11 and activities that meet the following criteria:

12 (1) The project is located within the CALFED solution area as  
13 defined in the CALFED final programmatic environmental  
14 impact statement/environmental impact report, dated July 2000.

15 (2) The project wholly or partially assists in the fulfillment of  
16 one or more of the goals of the CALFED Bay-Delta Program.

17 (b) Except for projects financed pursuant to Chapter 6  
18 (commencing with Section 79545) or Chapter 10 (commencing  
19 with Section 79570), the California Bay-Delta Authority may  
20 review, and comment to the appropriate implementing agency  
21 with regard to, a proposal to award a grant pursuant to this  
22 division on behalf of a project that meets the criteria set forth in  
23 subdivision (a) for the purposes of determining whether or not  
24 the project is consistent with the CALFED Programmatic Record  
25 of Decision.

26 (c) To avoid any delays in project awards, the opportunity for  
27 review by the California Bay-Delta Authority pursuant to  
28 subdivision (b) shall be incorporated into the grant program  
29 schedules established by the implementing agencies.

30 (d) For the purposes of this section, “implementing agency”  
31 has the same definition as that set forth in subdivision ~~(h)~~(i) of  
32 Section 79402.